

Appl. No. 10/820,240
Amendment Date August 19, 2006
Reply to Office action Mailed August 1, 2005

REMARKS/ARGUMENTS

The Notice of Non-Complaint Amendment was mailed on February 16, 2006 and returned to the PTO as undeliverable. Examiner Reidel was kind enough to call the undersigned today and indicate she would resend the Notice of Non-Compliant Amendment. Subsequent to that conversation, Applicants were able to retrieve the Notice of Non-Compliant Amendment from PAIR and prepare this reply. Even though this response is more than one month after the first mailing of the Notice of Non-Compliant Amendment, it is timely as the first mailing was not delivered.

The specification stands objected to for a spelling error. Claims 1 - 35 are pending in the present application before this amendment. Claims 1, 4, 5 and 13 stand rejected under 35 USC 102 as anticipated by Nisch. Claims 18, 28, 31, and 34 and 35 stand rejected under 35 USC 102 as anticipated by Rizzo. Claims 2, 3, 6 - 10 stand rejected under 35 USC 103 as obvious in view of Nisch and Shahinpoor. Claims 11 and 12 stand rejected under 35 USC 103 as obvious in view of Nisch and Krulevitch. Claims 14 and 15 stand rejected under 35 USC 103 as obvious in view of Nisch and Michelson. Claims 16, 17, 21 and 22 stand rejected under 35 USC 103 as obvious in view of Nisch and Rizzo. Claims 19, 20 and 23 - 26 stand rejected under 35 USC 103 as obvious in view of Rizzo and Shahinpoor. Claims 27 stand rejected under 35 USC 103 as obvious in view of Rizzo, Shahinpoor, and Krulevitch. Claims 29 and 30 stand rejected under 35 USC 103 as obvious in view of Rizzo and Krulevitch. Claims 32 and 33 stand rejected under 35 USC 103 as obvious in view of Rizzo and Michaelson.

Claims 11, 12 and 17 - 34 are cancelled. Claims 1, 6, 15, and 35 are amended to more particularly point out applicant's invention. New claims 36 through 45 are added. Cancelled Claim 17 is rewritten as claim 36 to depend on claim 35. The subject matter of cancelled claims 11 and 12 are incorporated in the amended claim 1.

Applicants have amended independent claim 1 to add the limitation "An electrical cable coupling said electrode array to said electronics package said electrical cable piercing the pars plana region of the sclera". This incorporates the limitations of cancelled claims 11

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and 12 which stand rejected under Nisch in view of Krulevitch. Krulevitch does disclose "points, barbs, hooks, or tacks" which are known in the art, as stated by the Examiner. Such structures do not inherently apply to an array cable pricing the pars plana region of the sclera. Krulevitch contains no mention of such a structure or the pars plana region of the sclera. Claim 1 is made patentable due to the above changes. Claims 2, 10 and 13 - 16 are made patentable by their dependence, directly or indirectly from new claim 1.

Claim 6 is amended to include the limitation a fan tail having a decreasing radius of curvature". It is not at all clear to the applicants that Nisch discloses a fan tail. Figure 1 shows a minor radius of the connection between the annular portion 32 and the extension 33. There is no mention of the radius or of a fan tail in the text. It is probable that the radius is simply how the draftsman chose to draw the connection. Regardless, Nisch does not disclose a fan tail of decreasing radius of curvature, as clearly shown in figure 2 of the present application.

Applicants have amended independent claim 35 to add the limitation "A secondary inductive coil, electrically coupled to said electronics package and suitable to be mounted to the side of a skull outside the orbit of the eye." This is supported in applicant's figures 5 and 6 and not in any of the art of record. Claim 36, the rewritten claim 17, is made patentable by its dependence on claim 35.

New claim 37 includes the limitations "A strap surrounding the sclera" and "A secondary inductive coil, mounted to said strap". This is similar in scope the original claim 2 which the Examiner's rejects under the combination of Nisch or Rizzo with Shahinpoor. Applicants agree that scleral bands are within the prior art. Scleral bands are used to squeeze the eye and reform the shape of the eye to correct focal problems such as astigmatism. Shahinpoor adds an active component for dynamic changes to the art of scleral bands. However, it is not obvious to look to the art of scleral bands, designed for sighted patients, to find a method of mounting components of a visual prosthesis for the blind. This is clearly demonstrated by the two references Rizzo and Nisch. Both, Rizzo and Nisch, attach visual prosthesis components to the sclera but neither thought to use a scleral band for that purpose. None of the references suggest the combination of visual prostheses and scleral bands.

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Neither Rizzo nor Nisch suggest that a better means of attachment is needed or desired. A band around the eye provides a firm mounting surface for electronic components and spreads any stress of supporting those components around the entire sclera rather than just the small area immediately under the components.

New claim 38 adds the limitations "A strap surrounding the sclera" and "an electronics package mounted to said strap". This distinguishes claim 38 in view of the prior art as described in reference to claim 37 above.

New claim 39 adds the limitation "a hook on said prosthesis suitable to for engaging a surgical tool." Claim 7, also limited to a hook on the prosthesis, stands rejected based on reference numeral 32 in Nisch. Nisch describes reference 32 as an annular portion, which appears to be round. It is not a hook. Further, Nisch does not suggest that the annular portion 32 is suitable to engage a surgical tool.

New claim 40 adds the limitation "a substantially oval shaped secondary inductive coil". This is similar claim 16 which stands rejected under Rizzo. While Rizzo's coil in the hand sketches of figures 2A and 2B appears slightly oval, the same coil in the mechanical drawing of figures 3 and 5 is clearly round. There is no reference to an oval shape or any advantages of an oval shape in the text. Applicants submit that any reference an oval coil in Rizzo is simply poor drawing quality, not a disclosed feature.

New claim 41 adds the limitation "A fan tail having a decreasing radius connected to said electronics package" which is not disclosed or suggested in the prior art as describe with reference to claim 6 above. New claim 42 is dependent from claim 41 and adds "connected to said electronics package and to said cable to facilitate passing said cable through the sclera". New claim 43 is dependent from claim 41 and adds "wherein said fantail is connected to a strap surrounding the sclera."

New claim 44 adds "a folded electrical cable coupling said electrode array to said electronics package".

New claim 45 depends from claim 44 and adds "wherein said cable is folded to present the same side of said cable to both said electronics package and the retina." Nisch does not disclose such a folded array cable. Webster defines fold as "to lay one part over

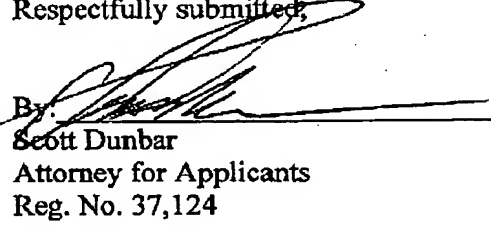
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another'. While Nisch discloses curvature in the array Nisch does not disclose a fold. In fact, Nisch discloses electronics mounted directly to the back side of the array.

Per the Examiner's request, applicants are submitting a new Information Disclosure Statement herewith. The changes presented herein do not add new matter, and applicants believe the application is in condition for allowance. If for any reason the Examiner believes that a teleconference may be helpful, the Examiner is invited to call the undersigned attorney at (818) 833-5055 to discuss this amendment.

Respectfully submitted,

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Date

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